



## **ACTION ON SMOKING AND HEALTH**

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### **OSHA Smoking Policy Developed to Meet Court Deadline**

#### **ASH Proclaims its Law Suit Successful, But Will Not Dismiss It Yet Even Smoking in Separately-Ventilated Rooms May be Unlawful**

OSHA's new policy on workplace smoking was developed to meet a court deadline that it file a brief by Friday, March 18th, demonstrating that it did not unreasonably delay in acting on the issue of workplace smoking.

Ironically, the agency failed even to meet this deadline, since the proposal was unexpectedly held up by the Office of Management and Budget (OMB).

Action on Smoking and Health (ASH), the antismoking organization which brought the suit in the U.S. Court of Appeals, says that it is very pleased with OSHA's action, and believes that its law suit has been largely successful.

However, said law professor John Banzhaf, ASH's Executive Director, the legal action will not be dismissed.

Rather, he says, ASH will use the law suit to continue to press OSHA to move even more quickly on a workplace danger which kills more than 500 American workers each and every week.

He will also ask the court to retain jurisdiction to assure that the final regulation is consistent with the statutory requirement which limits exposure to a toxic chemical to the lowest level which is technologically and economically feasible.

Since tobacco smoke — unlike asbestos, benzene, cadmium, and other regulated chemicals — is not necessary in any workplace process, the lowest feasible level is zero, says Banzhaf.

Permitting workplace smoking, even in separately-ventilated rooms, is as illegal and illogical as permitting unnecessary asbestos in the workplace, even if it likewise is in a separately ventilated room.

Scientific studies show, he says, that smoking even in separately-ventilated rooms poses a health risk to workers from the amount of smoke which nevertheless escapes which is higher than allowed with other chemicals.

ASH's previous legal actions helped end cigarette commercials, first triggered the modern nonsmokers' rights movement, led to a smoking ban on domestic airline flights, developed the legal theory under which the FDA is considering regulating cigarettes, and helped hundreds of individual nonsmokers.